

REMARKS

The claims are amended to recite sizes of the claimed powder particles. The grain size of 150-300 mesh is recited at page 11, line 15.

Claims 1, 4-9, 21, and 23-28 are rejected under 35 U.S.C. § 102 as being anticipated by Foster '181. This rejection is respectfully traversed.

(1) All three of the independent claims 1, 9 and 21 recite powder particles that are larger than a micron. Contrary to the claims, Foster discloses only "submicron" particles (col. 1, lines 64 and 68; col. 2, lines 7, 15, 66, and 67; col. 3, lines 6, 15, 18, and 28; col. 4, line 10; col. 6, lines 34 and 54), and states that its particles are "preferably" below 0.1 micron in size (col. 2, line 8). Foster teaches strongly against larger particles, stating that submicron size is the "primary requirement" (col. 2, line 14), and that "particle size is of critical importance" (col. 2, line 62) because larger particles will cause the glass to sag, acquire an indented or dimpled surface, and undergo "marring" (col. 3, line 4; this is also taught at col. 4, lines 5-9). Both of Foster's independent claims recite the "submicron" particle feature.

(2) The Examiner asserts (page 3, line 3) that Foster discloses powder "about one micron in particle size." But Foster discloses only *submicron* particles, which excludes at least half of whatever range "about one micron" might cover. As noted above, Foster teaches a preferred size of less than 0.1 micron.

(3) The Examiner also states that the asserted "about one micron" (not admitted) is "inherently" equivalent to "about 200 mesh," but this, also, is respectfully traversed. A size of 200 mesh corresponds to 75 microns (see page 11, lines 14-18 in the specification), which is 75 times Foster's disclosed maximum of 1.0 micron. The Examiner's assertion is like saying that a mouse about one inch tall is "inherently" the same height as a 75-inch-tall man (6' 3" tall).

Using Foster's *actual* teaching—that the particles should be 0.1 micron in size, not about one micron—the Examiner's asserted equivalence would make the six-foot-three-tall man as high as a stack of just two dimes lying flat.

While the claims now recite at least 150 mesh instead of 200 mesh, the same argument hold, as three-quarters of 200 mesh is still much, much bigger than 0.1 micron.

(4) With respect, the Examiner's assertion of equivalence is unsubstantiated, being unsupported by either citation or reasoned argument.

(5) By asserting "equivalence" of the reference's teaching and the claimed subject matter, when there is no *actual* anticipation, the Examiner is seen to step outside of the boundaries of a §102 rejection. Such an assertion could only be proper in a rejection under §103, but no such rejection is made.

Respectfully submitted,

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Date

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